

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Bail Appl.No. 4006 of 2007()

CRIME NO.69/07 OF VILAPPILSALA POLICE STATION
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PETITIONER: ACCUSED 1 & 2:

1. BIJU, S/O.MANUEL, AGED 27 YEARS,
RESIDING AT KUNNUMPURAM, ASSARIVILAKOM,
CHOWELLOOR, VILAPPILSALA, VILAPPIL VILLAGE,
THIRUVANANTHAPURAM.
2. MOHANAN, RESIDING AT KUNNUMPURAM,
ASSARIVILAKOM, CHOWALLOOR, VILAPPILSALA,
VILAPPIL VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 4006 of 2007

Dated this the 3rd day of July, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 and 2. They face allegations, inter alia, under Section 308 r/w. 34 I.P.C. The crux of the allegations is that the petitioners had trespassed into the residential compound of the defacto complainant and had unleashed an attack on him with dangerous weapons. Serious injuries have been suffered. Fracture has resulted. Investigation is in progress. The alleged incident took place on the night of 10.4.2007, submits the Prosecutor. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. False allegations are being raised against them. In these circumstances anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Prosecutor opposes the application. The allegations are serious. Grievous injury (fracture) has been suffered by the victim. Investigation is not complete. At this early stage,

there is no reason to invoke the discretion under Section 438 Cr.P.C., submits the Prosecutor.

4. I find merit in the opposition raised by the learned Prosecutor. The nature of injuries have been read over to me from the case diary. In the facts and circumstances of this case, I am certainly of the opinion that this is not a fit case where the equitable discretion under Section 438 Cr.P.C. can or ought to be invoked in favour of the petitioners. This is an eminently fit case where the petitioners must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed.

(R. BASANT)
Judge

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